

P U B L I C H E A R I N G

before

SUBCOMMITTEE OF THE ASSEMBLY COUNTY GOVERNMENT COMMITTEE

ON

REPORT OF THE COUNTY PENAL SYSTEM STUDY COMMISSION

Held:

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Majority Conference Room

State House

Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Chuck Hardwick (Chairman)

Assemblyman John A. Girgenti

ALSO:

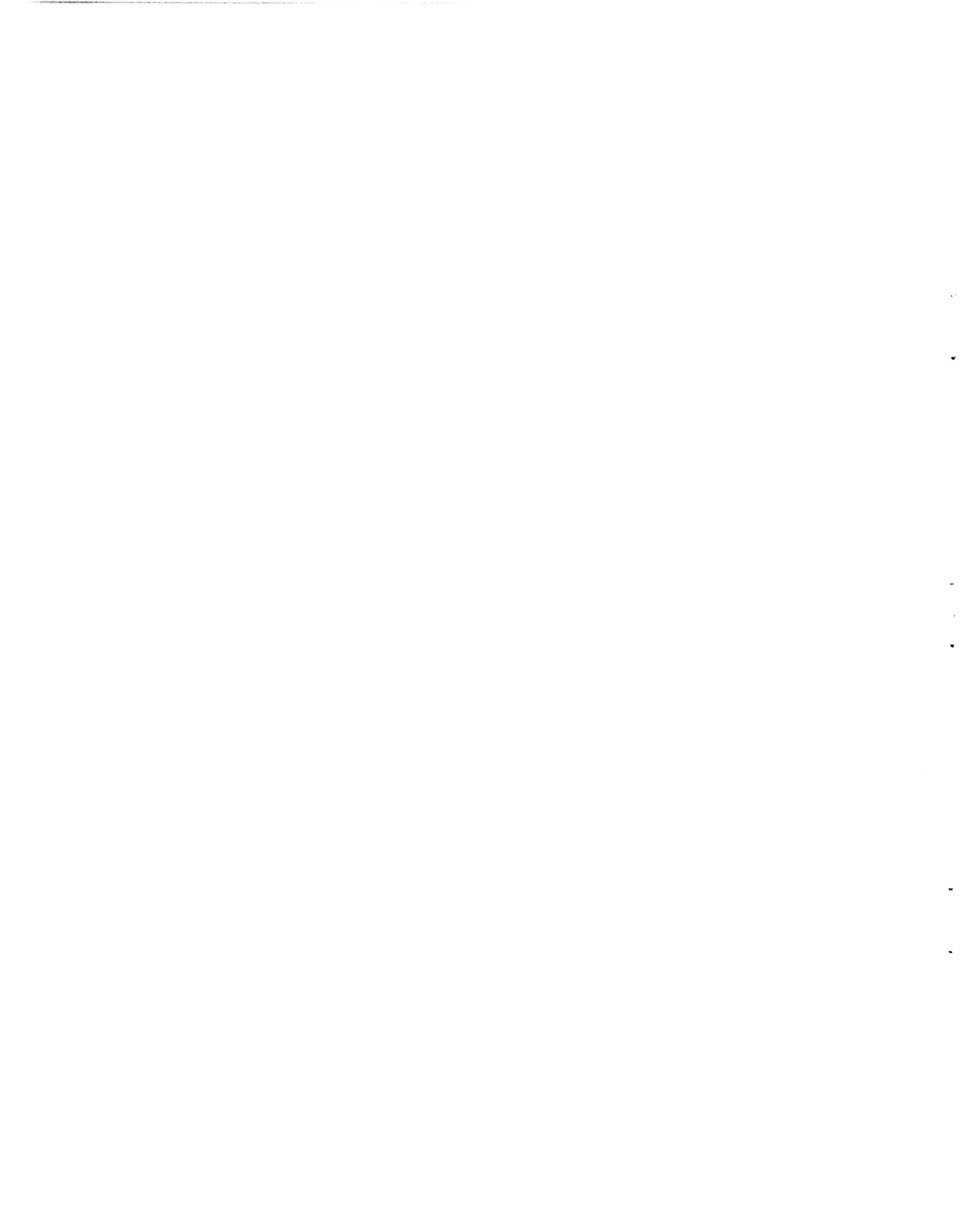
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ASSEMBLYMAN CHUCK HARDWICK(Chairman): Good morning, my name is Chuck Hardwick, and this is a public hearing of the sub-committee of the Assembly County Government Committee, and we have been meeting to review the report on the County Penal System Study Commission.

On my left this morning is Assemblyman John Girgenti, and on my right is the aide to the sub-committee, Mr. Norman Katz. I am sorry Assemblywoman Szabo, who has made every other meeting, is ill this morning and is unable to attend.

This is the fourth in a series of public hearings that we have held on New Jersey's county jails. At our first meeting, the sub-committee heard from several of the report's authors, and this was followed by a hearing, in which the Department of Public Advocate and the Director of the New Jersey Association of Corrections presented their views. Our most recent meeting was devoted to hearing the opinions of county officials directly responsible for the funding and management of local penal facilities. I believe we have heard from a fairly broad sample of those concerned with county jails.

On the basis of the testimony taken to date, it appears that widespread disagreement exists over both the findings and recommendations of the County Penal Study Commission. Critics and proponents of the report have offered compelling arguments to buttress their assessment of the document.

It is clear that New Jersey's county jails are not without problems that need to be corrected. However, it is equally apparent that several county jails are well run, and it is difficult to generalize about the conditions of all such facilities. Different problems confront individual jails and it should be noted that some of these are not easily correctible. Jail administrators, confronted with inadequate funding and outmoded facilities, can only do so much, and it should not be forgotten that we exist in an era of limited financial resources and a lack of funds to immediately correct all the problems that confront us. Yet, many of the problems highlighted in the Commission's report and discussed at these hearings can be alleviated without the expenditures of large sums of money. I would also like to note that while our county jails are not without their shortcomings, the report of the Commission has been widely criticized, and some of that criticism would certainly seem justified.

I would like to discuss one area where almost all of the witnesses, who have appeared before this sub-committee, seem to be in agreement, and this is on the need for the State to impose enforceable minimum standards on the county jails. The law in its present form gives the Department of Corrections the right to

promulgate such standards, but not to require that local officials implement them, without the Department resorting to lawsuits.

Today we will hear first from Commissioner William H. Fauver of the Department of Corrections, who, I believe, will comment on the relationship of the State to county jails and on the feasibility of imposing and enforcing minimum standards.

While the sub-committee has reached no final conclusions, and is not yet prepared to make recommendations, it is apparent that the idea of having the State impose enforceable minimum standards will receive very serious consideration.

I would like, at this time, since this is the last meeting of our sub-committee, to publicly express my appreciation to Assemblyman Girgenti and Assemblywoman Szabo for their diligence and hard work that they have put into these hearings, and to Mr. Norman Katz, who I think has worked very hard and increased the effectiveness of this committee very much. I thank all of you for your contributions.

Now, before I ask Mr. Fauver to speak, if there is anyone who wishes to testify, and you have not seen Mr. Katz this morning to sign up, please do so now, so we can plan our agenda for the day. It is our intention, if we only have four witnesses, which we have now, to go straight through and adjourn as soon as we can, but not take a lunch break. If we have a lot of people, who do want to testify, then we will break for lunch, but otherwise, we will go right through the morning. Is there anyone here, who has not previously seen Mr. Katz, and who wants to testify? If not, then we will ask Mr. Fauver to be the first witness. We welcome you, and thank you for coming, Commissioner.

W I L L I A M H. F A U V E R : Thank you, Mr. Chairman. I would like to comment, first, I think some of the statements you made in your opening remarks really express my feelings and the feelings of the Department, and rather than rehash the report of the Irving Commission and why it is right or wrong and my feelings on that, I would like to pick up on what I think is right.

ASSEMBLYMAN HARDWICK: Excuse me, Commissioner. With the air conditioner running, you may have difficulty hearing us. You are welcome to move up.

MR. FAUVER: What I was starting to say on that, I think if I could address where I think we should go, and what I think we should do, rather than what is right or wrong with the report, that is what I would like to do. In the statement that I have already presented to you, some of the issues are covered. Rather than just read through the statement, I would rather highlight some of the issues.

First of all, in the report itself, the one thing we do feel very strongly about, and I personally feel strongly about it, is the standards. I think there has to be developed standards for the running of the county jails. I don't think that this should be, in a sense, superimposed by the State. I intend to, as I indicated in the statement, form a committee to work on that, starting in September. On the committee, we will have representation from the county jail wardens, the sheriffs, as well as members of my own staff. This was done a number of years ago in 1975, but at that time, the Division of Correction and Parole did not have any real enforcement powers, and it was more of a guideline than standards that we felt should be enforced. I would really not see the committee having to work too long on this, because there are guidelines now. The areas of concern are basically known by most of the people that would be there, if not all of them. As I would see it, we could have some results on that by the first of the year. I would see that as an outside date. The standards, then, I would say, should be those which are agreed upon; if there are areas that are not agreed upon, where there is disagreement, then I believe it would be my job as commissioner to make a determination of what should be in. But every effort will be made to consider the input from all the people that I named.

I think there are two basic areas of concern. One is the standards, which involve the running of the jails and the rights of inmates and so forth, and the other is the issue dealing with construction and inadequate facilities and that type of thing. Those we should separate. I don't think it has been separated and from some of the testimony that I have heard, when a generalization is made about the jails being inadequate--I don't think a lot of the things that are said about the county jails could be said about the State institutions, when you get to physical plant and physical structure and not enough space. I don't think this is true in the area of rights of inmates, due process procedures, and things like that. That would be the area that I feel we could move fastest on with the committee. I think it is basically unfair, has been unfair, to judge the counties against some nebulous kind of standard. That is why I feel so strongly about having a standard, because it becomes very subjective as to what the examiner, or the interviewer, or whomever feels in his or her mind should be going on or should be happening. They may use guidelines such as Sheriffs' Association manuals or standards, but it is really very difficult, when you are judging against nothing, in a sense, except a theory, rather than what is down in black and white, that should be met. I think, in that sense, that parts of the report were unfair to the counties.

One other recommendation that I would like to comment on, and I did not contain it in my statement, but there was a suggestion that there be ombudsmen or ombudspeople in each county to deal with the problems of the inmates as they arise. I don't really think that it is necessary to have twenty-one people in twenty-one counties to deal with it. I would suggest that, more appropriately, there be an ombudsperson in my office that would deal with the county jail problems, in conjunction with the Public Advocate, who now bears most of the burden on this. We do not have such a position at this time, so that would be an additional position. From the mail that comes through the Commissioner's office from inmates in the county jails, it is really fairly minimal at this point. There is not an awful lot. Ironically, one of the reasons we got a lot of mail last year, considerable mail, was because of the backup. A lot of the inmates were complaining about being kept in the county jail and not getting into the State, which was not the fault of the counties, but was the fault of the State for not being able to take them. But if the standards are there, and if the rights of the inmates, and the standard way of running the jail, as far as medical procedures, and loss of privileges to inmates, and things like that are dealt with, basically an ombudsperson could handle that, the kind of complaints that come up, and I think it could be effective.

The issue then comes up, standards are developed by the Commissioner's office, in conjunction with the counties, and how can they be enforced? Well, the standards that we have now for our own state institutions can be enforced, because the Commissioner has the appointing power over the superintendents at the institutions, and if they don't comply, they can be removed. I am not suggesting, nor do I want, that kind of authority over the counties. I don't think it would be appropriate, particularly because the majority of the people running the jails are elected officials and not appointed officials, and that is fine. The compliance can be brought about in other ways before going to court, but once there is agreement on the standards, and once they are promulgated, if the bottom line would be that we would have to go to court, then so be it; we would do that. I really don't think it would be necessary. Our experience with the counties has been, for the most part, a cooperative one. They have gone along with suggestions, and I would like to point out a little further along some of the things that have been done in cooperation with the State and the counties. I think that is the way it should work.

One of the suggestions I am making in the statement is that the power of

the assignment judge of the county be expanded, so that the assignment judge could order things to be done in the county on the recommendations of the department, if the county is reluctant to do it. That is not a way of avoiding the issue or abdicating the authority of the Commissioner's office, as I see it. It is a way of putting another step in between going to court, because I think that should be the last resort.

Another suggestion that I made in here is that we conduct a study on the issue of facilities, and go for a bond issue for the counties, if it seems appropriate, to help them with construction, renovations, whatever is needed. The responsibility for the running of the county still lies with the Freeholders, as far as the financing, but I think if we were able to get a bond through, to help with the renovations or construction, that it would also be a way for the Commissioner's office to get more input into how the jail is run, because we would not sanction or go along with any construction or renovations that do not meet the standards. So, a county would lose the money, and I think the money issue, any kind of subsidy issues like that, would be more of an enforcement tool than going to court with all the costs and problems that that might incur.

So, those are the major suggestions that I have: the standards themselves, the suggestion of an ombudsman in the Commissioner's office to help with the enforcement, the broadening of the assignment judge's powers, and the bond issue money.

Now, I would like to comment on some of the things that have been done this year, and in the past couple years with the counties. One of the things that is continuing is the corrections officers' training academy and the county jail officers are trained in the academy. They have access to this. In fact, under the SLEPA grant that we have for the counties, or for the training, it is a requirement that we train county people. So, the county people that are coming in have, really, the same training as the State people, as good or bad as that might be. Now, the one difference is, and I would like to see some way to resolve this, the counties are not compelled to send people to the training academy. So, some counties diligently send people, and others do not. Now, one of the reasons they do not is because they do not have the money to pay for another person while this officer is being trained for three or four weeks. Again, it comes down to a money issue, and we do not have the authority to force them to send somebody, even if there was a vacancy.

One suggestion I read in the paper the other day from a freeholder was that a master plan be developed on the county jails, I think, statewide. We have

our planning and management evaluation unit from central office working with a number of counties in setting up plans for new jails, for changes in the current structure in the jails, and these things are ongoing. They have also helped two counties, I believe it is Atlantic and Middlesex, in securing federal grants for part of the jail overcrowding issues. The county service staff has helped wardens and other correctional officials in Ocean and Middlesex, in development and design of new facilities, and we pass on that. In conjunction with that, I might mention that I would think another thing that the department could utilize would be some money to hire experts in areas of construction and so forth, when we are actually doing this. We depend, now, on other state agencies, plus our own people, most of which are senior correction people and have good expertise in, you know, whether a window is strong enough to withstand somebody cutting it with a hacksaw blade, and that type of thing. But, in the overall construction itself, we could use a resource to hire specialists in the particular areas. We have, for example, in Warren County, this past year, had a lot of problems in the county jail; we put a corrections captain up there for about three months to help the warden in getting the place straightened out and getting it running again, and that was as a result of a series of escapes from the county jail and a lot of really bad publicity, and they needed some kind of help and asked for it, and we were able to supply it, and I think that is a role that the State should play.

The academy, I think, is a route that I would like to see utilized more in the training of corrections officers, because our belief is, the more the officers are trained, whether it is on the State or county level, the less problems there are, because we do deal with such issues as due process rights for inmates, dealing with minority groups, Spanish speaking, this type of thing. I think the more comfortable the officers are with those issues, the less confrontations there are. I think that would also tend to eliminate some of the problems.

There are a number of states, thirty-two of them, that have jail inspection programs. Some states have nothing. There are two that I would like to comment on, because they have enforcement powers, including the power to close down the jail and transfer people. I think Texas also recently enacted that law, although that is not down here, but Maryland and Washington have basically the same law, where they have an inspection, the inspection officer submits a report, and they have a set time period in which to comply with the reports. In Maryland it is 180 days, where the commissioner can take action and close the jail and transfer inmates. I am not suggesting this. I don't think this is a solution in our case, because one issue comes up: Where do you transfer them? You don't transfer

them into the State, because we can't handle them now. I think it is interesting to note that in Maryland, the state institutions are under a court order not to accept more inmates, because of the overcrowding situation, and the same is true in Delaware. I think, when the laws were passed, one of the assumptions was that the state could pick up these, if they forced the closure of the jail. I would not be for that. I think there should be a time limit. I think, in the standards, we should develop a time limit, particularly on the non-construction issues. If due process rights are being violated, there should be a time limit of whatever is decided, 180 days, it depends, and if it is not complied with at this point, I think the steps of going through an assignment judge, and then to court would be the final steps the Department would take. But, I don't really think it will go to that. I think the standards, basically, will be met. I don't feel it is necessary to have legislation, such as these two states have, which I think is excessive. I am also not sure, in those states, as to the tradition of home rule that we have in New Jersey. I don't mean to sound like a "states righter," in that sense, but I think that is a reality in this state, that is not necessarily true in some. In some states, the county jails are all incorporated into the state system. I think there are six states that have that system. But, I am not suggesting that. I think there are steps in between.

Basically, Mr. Chairman, that is it. I have condensed my statement from a fairly long one, into this, and I would like to end on that. If anyone on the committee has any questions, I will try to respond.

ASSEMBLYMAN HARDWICK: Thank you. I do have a few. You said in your statement that you have the power to bring suit, now, under current law. I am curious as to why the Department of Corrections has never done that. Is it because you haven't felt there was anything that you should bring suit about or is there some other reason?

MR. FAUVER: Well, I think there are two reasons. One is that, I guess, our feeling was basically that the litigation was in the hands of the Public Advocate's Office, and that was one of the reasons for them to exist, to file litigation, if it was necessary, on behalf of the inmates. I think the other is that we did not have any real standard to judge against. I think that is the basic issue on the standards. What do we bring the suit for? It would be for something that doesn't exist, in a sense. Now, if there are due process rights or court issues, then I would see it--

ASSEMBLYMAN HARDWICK: I am not sure I understand, Commissioner. How do you mean that?

MR. FAUVER: We have guidelines, but the guidelines have never been told to the counties, that this is what you have to go by, because we never had that kind of authority, when these were promulgated under the Division. There is nothing to judge against, in the sense that these are just guidelines. It is not, paragraph A, on page two, is what you are not conforming to, and we are going to take you to court to force you to conform, if you don't.

Another big factor was the overcrowding in the county jails. A number of the problems of overcrowding were not the county jails' fault. They were because the State could not take the inmates. So, last summer we had a backup of about four hundred people in the county jails throughout the state. So to criticize them on not being able to handle this--the people were being housed in sub-standard conditions and so forth--it was not of their doing. That type of issue we did not want to get into. I think, if you would trace back to when Corrections was under I&A, the Commissioner, also, at that time, did have this kind of power. The Director of the Division didn't, but the Commissioner could still take somebody to court, and it was never done, to the best of my knowledge.

ASSEMBLYMAN HARDWICK: Now, your department published the minimum standards, and you feel you have been given statutory authority to promulgate standards for county jails, and you have had the authority to institute a suit, if you wanted to for standards. Now, I am not sure what you mean, when you say there were not guidelines, when you published guidelines, which if you brought suit, they would be enforceable. I mean, if you wanted to enforce them, could you not have done that by bringing suit?

MR. FAUVER: We could have, yes. That option was always there, a suit against the county.

ASSEMBLYMAN HARDWICK: Now, as much as I respect the Public Advocate's function, I think they would confess that they are given a mandate with a particular viewpoint, and that is the inmate's rights as an advocate, and not a balanced viewpoint on all standards. Therefore, the first reason that you gave, that you relied on the Public Advocate, do you feel that that is the way to go? Do you think that is adequate, with the viewpoint that they have, of the inmates' rights only, and it is not a very broad viewpoint? Are you comfortable with that?

MR. FAUVER: No, I don't think it is the way to go. I think it is one of the ways. Violations that we would get into on the Public Advocate issues, I think, would be the ones that we would be most likely to go to court on also, which would be violations of the rights of the inmates. Now that is the base that

the Public Advocate is coming from. I think if we get into the issues of inadequate space, no recreation areas, these type of things, there really is, as I would see it, even today, no solution to that. I can't see going into court for a suit to say that, for example, Warren County jail does not have adequate visiting area, they still don't. In going to court to force them to have an adequate area, if you win the suit, I don't really know what you gain, other than the court upholding your authority to say that the area is inadequate and that maybe the county jail can't be used or portions of it can't be used and the people should be transferred to another jail in another county or to State institutions.

The basic problem goes back to the funding in the county, which is a county responsibility.

ASSEMBLYMAN HARDWICK: But, what about many cases, where we are not talking about money, or even necessarily an inmate's rights, in the traditional sense, and I am thinking, for example, of classification of prisoners and the co-mingling of a person being arrested for the first time with people who have been sentenced and are waiting for transfer to a State institution? Would that not justify the Department of Corrections to bring suit, if necessary, because you are not necessarily talking about money there, are you?

MR. FAUVER: No, you are not talking about money, generally, but you might be because you might be talking about a county jail not having the ability to separate because of the size of the jail. Yes, that would be an issue that I can see, that could be litigated. But, I would like to point out, I don't think it is as black and white as having the non-sentenced offender and the sentenced offender mixed, because the non-sentenced in this case could be a person that has had a lot of previous sentences and could very well mix with the others. It may not be. I think it is just not that cut and dry. Yes, I can't disagree with you. That could be an area, that type of an issue, rather, that the Department could go to court on.

ASSEMBLYMAN HARDWICK: Now, you said earlier that you could see the establishment of an ombudsman in your office. How would that differ from the Public Advocate's role now? I am not sure. That wasn't clear in my mind.

MR. FAUVER: It would differ in this respect. I think the ombudsman would have more direct contact. I would see the ombudsman attached to the Commissioner's office, working through the Bureau of County Services, and checking on the standards, for example, the inmate complaints, that he or she did not get due process rights on a disciplinary hearing. Finding out if that is the case, if

the feeling is that the person's rights were violated, as an example, and lockup time was given because of that, and our investigation shows that it was not, then we would recommend, through the ombudsman of the county, to the county jail warden that that be stricken from the person's record, because that is a violation of the standards that we set up. I think we can do that through the direct contact with the warden and sheriffs by using the argument that these are the standards, and we are saying that you are in violation of this standard, and therefore this person should be allowed out of lockup, and the record stricken. You can do that without going to court, I think, by these standards. We do that now with our own institutions. The ombudspeople that we have go out, and if come back to me and say there has been a violation of due process rights, then I review the case with one of our attorneys, and if it is, then I will write to the Superintendent, or get in touch with the Superintendent and say, this has been violated and you have to have a new hearing, or if you don't choose to have a new hearing, the whole thing must be stricken from the record. I think we can do that with this person working out of the Commissioner's office.

ASSEMBLYMAN HARDWICK: You said in your statement that you think in the future that the jails would meet the standards that you put forth. Why do you think they would change their behavior, when they have in the past not shown a strong incentive to meet the standards? Why do you think they would change?

MR. FAUVER: Again, I think that is a generalization of all the counties, and that has not been true in all the counties. Some of the counties have been very cooperative, and have gone by anything that we have suggested, where they have been able to do it. I think a couple of things. One, if the bond issue were to go through, then there would be more money, and this would be an added clout that the Commissioner's office would have. If you were not complying, you would not get the funds. We are also in the area, now, of contracting with a number of the counties to keep inmates in the county jails that are state prisoners, and we are paying per diem costs for them in a few of the counties. We intend to continue that process and in doing so, we can insist that the counties go along with the standards, or we would not renew the contract. Now, in the case of large counties, for example, such as Essex, this past year, we contracted for them to hold, roughly, one hundred inmates, not to exceed one hundred inmates. Now, this gets into dollars, around \$900,000 per year, which is going in to help run the jail and the system, to pay for our inmates that they are keeping there. The agreement is that those inmates will receive the same services, as much as possible, as within the State institutions. Now, that is a fairly large amount of money to be going into a county, and I think it is up to us to have controls.

ASSEMBLYMAN HARDWICK: How do you feel about your current inspection procedures? Are you satisfied with the way the inspections are conducted, at this time?

MR. FAUVER: Yes and no. I am not satisfied, in the sense, that we do, as you are aware, not just the county jails, but, also, all municipal lockups. Now, even though some of those are one cell or two cells, it does take staff time. Basically, our goal that we are shooting at is to do two a year in the counties, an inspection and a follow-up inspection. What I would suggest in the standards is that there be time frames for implementation. I think that is one of the things that is definitely needed and is missing now.

I think, if you look through the reports, which I know that you have, at least some of them, you will see some things that are constantly repeated over and over as violations. I would suggest to you that most of those, in my estimation, are the physical issues, that there is not a recreation area, there is not a room for contact visits, this type of thing, there is not anyplace to separate; and that is not the only reason, but one of the reasons that I am suggesting the bond issue. The inspections themselves, I think some of the things are very good. I would say that the perfunctory things, such as are the bars secure, is this a secure area, those types of things, I think we do very well. I think what we need to do, for example, in the area of medical care, we are not checking the quality of medical care. We are checking only, is there a sick call, is there a way for a person to get sent to an outside hospital if they are sick. I think, where I would like to see it expanded would be into the quality, by using medical consultants, who say, not only is there a sick call every day at eight o'clock, but here is whether it is any good or not.

ASSEMBLYMAN HARDWICK: Well, one of the things that concerns me about reading the inspection reports is--you know, I have been meeting with your staff, off and on, and one of them used the expression that there is a reluctance to enter into an adversary relationship with the county jail officials. Now, if you are given the responsibility to set the standards and do the inspection, how can you do the job and not enter into an adversary relationship, at some time, where you are addressing a particular jail on a particular standard? Do you concur with that feeling of not having an adversary relationship?

MR. FAUVER: No. I think that it would be an adversary relationship. I have been reluctant, as you are suggesting, by not going to court on that issue. I think that we would definitely be in an adversary relationship, even, for example, in the ombudsman issue, because the ombudsman would be going by the

standards and due process rights. The warden, or the sheriff, or the captain, or whoever it might be at the time could say, "well, that's all well and good, we messed up on the hearing, but the guy is still guilty and he should still be locked up and everything." Then we would be in an adversary position. If that happens, fine. Then we will take a strong stand on it.

ASSEMBLYMAN HARDWICK: Well, how does your proposal for an assignment judge differ from what you can do now by going to court? I don't understand how this gets around the adversary relationship, or why that would improve what you can do now.

MR. FAUVER: I don't know if it improves. I think it puts another step in the structure, and I think it is something that can be done faster than going to court. It would be less expensive. If the assignment judge is convinced that an officer is needed on the third shift, because there has been a number of assaults on inmates, then he can order the county to do that. He can do it a lot faster than we can do it by going to court.

ASSEMBLYMAN HARDWICK: How would that work? How do you envision this recommendation of yours working, the mechanics of it, the procedures?

MR. FAUVER: I envision that we get to the adversary kind of a thing, where after a certain number of days, we have told the county that, for example, of a standard of safety and welfare of inmates, just using the example I gave you, and we think there should be another person on third shift and they say, "well, we agree, but we don't have the money, we can't do that, and we can't come up with any suggestions as to how staff can be shifted around, because they are so tight with it." We would then go to the assignment judge explaining what our position is and what we think should happen, and if the assignment judge concurs with us, he can order them to put on a person. If we skip the assignment judge, our only option would be to go to court. I just think it would be a longer, drawn-out process. If the assignment judge does not agree, then we would have to make a decision as to whether to go to court.

ASSEMBLYMAN HARDWICK: Would you prefer to have administrative authority to directly require changes yourself, without having to go through the assignment judge, just to have administrative authority to be able to require changes?

MR. FAUVER: No, I wouldn't. I think, particularly when it gets into personnel, because they have a budget that they have to live within, and that the freeholders have established, and I really don't know how it would work.

ASSEMBLYMAN HARDWICK: What about non-budget matters, where a sheriff says, "no, we don't permit newspapers in the jail," and your standard says that there

should be newspapers? How would you intend to enforce that standard? Would you go to the assignment judge on that?

MR. FAUVER: Yes, I would go to the assignment judge, once the time period was over and they did not comply, and all reasonable efforts were tried to get them to comply, and then present it to the assignment judge, and if he didn't want to take a stand on it, or felt that he didn't want to order it done, I think then we would have to go to court on an issue like that, once the standards are developed. There may be other intermediate steps that don't come to mind. I don't think, in that sense, the State should be administratively running the jails. I don't think that is what should happen, although I know that is one of the recommendations that came out of the Commission. But, I think we should set the standards and they should be working in conjunction with us to meet the standards, and we should help them in any ways that we can. It is not unlike, as I see it, in some respects, the federal government's relationship with the states. The federal government is setting up standards for accreditation of state institutions, and they will come around and accredit, and the areas that have shortcomings will be told to comply within a certain amount of time, or they can go to court. Now, the federal government has other sanctions over us, in the sense that we have a considerable amount of federal money for programs, and they could say, if you are not complying, we are going to take the federal money away. That would be a very serious sanction, and I think that would, even in the states that were reluctant to go along, force compliance. I think if something like that is built into the counties, in the way of a subsidy program, that that would give you the enforcement power. Bond money would be one example.

ASSEMBLYMAN HARDWICK: Okay, I will turn the questioning over to Assemblyman Girgenti.

ASSEMBLYMAN GIRGENTI: Commissioner, first of all, I want to commend you on the job you have been doing so far. I know you came into a rough situation, and you are doing a very good job, from the reports I have been getting back.

I would just like to ask you a few questions, to get something clear in my own mind. Now, your department, what is your present relationship with the Department of the Public Advocate? How do you coordinate your activities? Do you meet informally?

MR. FAUVER: Yes. Basically, it is informally, or if we get a letter in from a county jail inmate with a complaint, we may get in touch with the Public Advocate and ask them, or if we think it is a fairly routine complaint, we will get in touch, generally, just with the county jail itself, and right back to the

inmate, and tell him whom we have contacted, and what the resolution is, and that somebody is going to be seeing him, or whatever. Most of the contacts on the county level with the Public Advocate are informal. It is just somebody calling our office or our getting in touch with them.

ASSEMBLYMAN GIRGENTI: Because you do an annual inspection, every year, of every jail, your department, don't you?

MR. FAUVER: Yes, we do.

ASSEMBLYMAN GIRGENTI: The Public Advocate, is there an inter-relationship, are they aware of what has been going on in your department? Do you read their reports, because I know they do their own inspections too?

MR. FAUVER: Yes, we do both. We exchange. We worked out an arrangement with the Public Advocate's office, where we do send them copies of our inspection reports, on the jails.

ASSEMBLYMAN GIRGENTI: Just to clarify one point, you say in your statement that you do these annual inspections and to go on a little bit further with Assemblyman Hardwick's questions, what, as a result of these inspections, if you find something that is not up to par, or below standard, do you tell the sheriff, and at that point, what happens? Have they always complied? Right now, I know there are certain suits out with the Department of Public Advocate. What is their reaction to your department?

MR. FAUVER: Well, most of the time, I think their reaction is favorable. I have noticed, even in the testimony that I have read of the wardens and the sheriffs that have testified about their relationship with the department, it has been good. I think being in the same business, we recognize one of the big problems is the money problem. It is all well and good to say how things should be, but if you know they don't have the wherewithal to do it, any more than we have, in many instances, I think it is unfair to push that. As I indicated earlier-- and that probably is one of the reasons for the reluctance on court suits. As I indicated earlier, it is analogous to the federal government coming in to us and saying, there are things that are inadequate in our system. Some we can address, and some we can't, because they are money issues, and they take longer to solve. What I am suggesting, with the standards, we basically attack the things that are not the money issues first, and bring them up to par, and then, deal with the others.

ASSEMBLYMAN GIRGENTI: Alright, another area. One of the problems that we get from most sheriffs that come here, and from what I have read in the reports, is the overcrowding of the county jails. I know your department has made strides in

this. Can you give me any idea, at the present time, what kind of a situation is this? How is it alleviated? Do you have any figures?

MR. FAUVER: It has alleviated quite a bit since last summer, when, as I indicated, it was around---it is about one hundred and twenty right now, with roughly seventy of those being in Essex County, and that is under the contract. So, it is not the same problem that it was a year ago.

ASSEMBLYMAN GIRGENTI: One other point you made was that individuals are now sent to the academy by the different counties, the county jails, but that is not mandatory.

MR. FAUVER: That is right.

ASSEMBLYMAN GIRGENTI: Who incurs the cost of this? Does the county pay for each individual that goes to the academy?

MR. FAUVER: No, the county doesn't have to pay for the individual that goes, but they have to pay for the replacement.

ASSEMBLYMAN GIRGENTI: So, if you put somebody out, you are missing one staff person; you have to pay for that person?

MR. FAUVER: Right, you have to pay for that person.

ASSEMBLYMAN GIRGENTI: And the State pays for the academy?

MR. FAUVER: The cost of the training is absorbed by the State, but the county has to pay for the officer.

ASSEMBLYMAN GIRGENTI: There has been one point that has been brought out in our hearing so far, and I am not trying to put you on the spot, but I am trying to look for some information from you, and that is, what is your feeling towards the recommendation made to have a professional administrator in the jails as opposed to a sheriff, and to set up county correctional authorities?

MR. FAUVER: Well, without seeing more evidence on it, at this point, I don't think it is necessary. I think it may be in a larger county, where you have a county jail, a workhouse, a penitentiary type of setup, maybe, such as in Essex. But, in the smaller counties, I don't see it as really necessary. I think it is just another person imposed on the bureaucracy. I don't think the issue is-- I think it is the person. I think, again, without getting into naming people or counties, I think there are some sheriffs and wardens that do excellent jobs in running the jails, and they are concerned with people, and really try, and the same could be said with our institutions in the State. We have some that are very well run and others that are not as well run. I think it is the kind of person that gets in there. I don't necessarily agree that it has to be this kind of professional administrator.

ASSEMBLYMAN GIRGENTI: I kind of agree with you myself, in terms of we don't need to add more layers of bureaucracy. I don't think that is going to solve the problem. Another recommendation--I am not going to go through the whole report, but just some things that I was interested in--they had made a recommendation, I think it was three, for regionalized psychiatric holding and treatment centers, one in the north, one in the middle, and one in the south. In my opinion, I would feel that this is getting us into a different area than what we are really dealing with. I don't think that Corrections should handle this, that we have other adequate areas to handle this type of problem. What is your feeling on that?

MR. FAUVER: Well, I was opposed to the recommendation, not especially for that reason, but it looked to me as if the commitment to the psychiatric unit could be decided by the warden or the sheriff, which I don't think is appropriate. I think it should be through the psychiatrist, if anybody is going to be sent there, because, otherwise, I think there would be a violation of the rights of the person. In a sense, a layperson is making a diagnosis that this person is a psychiatric problem, and I think it would be just used to handle behavioral problems, which is not what the intent was. I know the problem that the counties have particularly with pre-sentenced people who go to State hospitals and escape because they are in insecure or unlocked wards. They really don't have the wherewithal to deal with them. We, as a department on the State level, transfer to the hospitals and to Trenton Psychiatric Hospital, and there may be a way not to do the same, because they are transferring now to the State hospitals, but to set up more on a regional basis, on that level. I don't think, basically, the states where corrections departments have tried to run the hospitals, psychiatric wards and all, that they have been really successful, other than with the federal government. I don't see that as a way to go. I think that should be handled by the people who are the experts in that area. I don't think mental health people should be telling me about security and custody, and I am not going to tell them about psychiatric problems.

ASSEMBLYMAN GIRGENTI: Just as long as you have people there, who are able to refer them to the proper places.

MR. FAUVER: Then, again, it should be a psychiatrist. I would be definitely opposed to giving that power to the sheriff, or warden, or captain, or whomever.

ASSEMBLYMAN GIRGENTI: One other point, and I know Assemblyman Hardwick hit on it already, and I never actually thought about this, and that is the area of the assignment judge. Wouldn't he still be rather limited? Because he would be

accountable to a budget and a board of freeholders. So, how much leeway does he have? According to what you said, he has the power to add new positions, if the need is clear; and if more correctional officers and medical staff are warranted in a county jail, he can see that they are provided. He still would have to go through the budget restraints, wouldn't he?

MR. FAUVER: Well, no, not really. He can order it, and then, the freeholders have to come up with the way to do it, or the county administrator or somebody. It is like the court imposes on us that we have to have certain things. The fact that we don't have money is no excuse. We have been down that route. I have pleaded poverty in court a lot of times, and lost. I think they have to come up with another way.

Another reason for the suggestion there is that the assignment judge should be, I would think, more attuned to the county problems being local and so forth.

ASSEMBLYMAN GIRGENTI: So, he could even become higher than the county administrator. He could just say, we need this, this, and that, and he can add those positions to the county government.

MR. FAUVER: Yes, he could.

ASSEMBLYMAN GIRGENTI: I thank you very much for your statement, Commissioner. I find it very enlightening. That is really all I have right now.

ASSEMBLYMAN HARDWICK: I just have a couple more questions, if I could, Commissioner. Under the new penal code, I have read in the paper that it is anticipated that there would be an increase in inmates in the county jails. Do you concur with that; and if so, should the State, or is the State making any plans to assist the counties? How are you assessing that?

MR. FAUVER: Our projections on it aren't that complete, on numbers. I think, basically, that we are going to have people longer in the State institutions, because I think the sentences tend to be more punitive in the ranges, so I think the people will be staying longer in the State institutions. Now, the effect I see, with that, on the counties is that we could get back to a serious back-up situation, because we don't have the room in the State institutions. Although it is quite clear from the Cryan case in Essex County that the law is on the side of the counties in forcing us to take the people, if it comes to that. The anti-thesis of that is that, as I indicated before, in Maryland and Delaware, the courts have ruled that the state count is set at a certain level, and that they can't take above that. I would think it would not be too long before an inmate or someone on behalf of the inmates in the State institutions jumped onto that issue. Then we

would be in somewhat of a conflict, because we would have the county or the State Board telling us, we have to take them, and the federal court saying, we can't take them. I don't know. At that point, I would go on vacation. I make light of that, but it could be a serious problem down the road. I think the county jail would increase, really, only on the backup issue. There are so many variables: whether the arrest rates will go up, the conviction rates, just the arrest rates, whether parole will stay the same. But, we do anticipate that the length of stay will increase, the beds won't turn over as fast, mainly because there will be a lot less indeterminate sentences.

ASSEMBLYMAN HARDWICK: Earlier we were asking about the training of corrections officers. Did you say that you would anticipate putting that into the standards and requiring that?

MR. FAUVER: Yes.

ASSEMBLYMAN HARDWICK: What kind of training do you think would be most important, and would it include psychological screening or orientation? How do you approach that?

MR. FAUVER: The screening part, I don't think is appropriate. I think they should be screened before they get to us. I think the hiring would still be done by the counties. I would anticipate that what we would give them would be things to help them do the job. As I indicated, the types of things, such as human relations would be helpful. We have people come from the Public Advocate's office, from the Bar Association, and talk about the rights of inmates and things that you can be sued over, and how you should write disciplinary reports, and report writing, and it is a very wide spectrum. It does include the psychological issues of trying to deal with things, rather than physically dealing with them; how to talk people out of situations and so forth. We also are instituting a course, which is relatively new, on hostage negotiations, which is another thing that always looms on the horizon. One point that that brings up, that I didn't mention, under our new arrangements with Civil Service, the training academy would be more like a police academy or state police academy, in that we can pull people out for not successfully completing the academy. It would be my recommendation in the standards that that also apply to the county jail people, as well as our own. I think that will be a help.

ASSEMBLYMAN GIRGENTI: Just the one point, what are they doing with the academy; everybody passes that goes there? What is the situation, they just take the courses?

MR. FAUVER: Yes, basically. It's basically just like you get a certificate saying that you attended, and these are the courses that you completed, and unless you dropped out on your own, you wouldn't fail.

ASSEMBLYMAN HARDWICK: I have a letter from a psychologist, who requested that it become part of the public record, and he talks about a former prisoner, who had been both in Marlboro State Hospital and in the prison system, and he much preferred the prison system. It was better for his self-esteem.

Commissioner, we thank you very much for coming today and for the cooperation from your staff during the whole course of this investigation and the hearings. It has really been excellent, and we thank you very much for your cooperation and your statement.

Mr. Charles Worthington, Executive of Atlantic County?

CHARLES WORTHINGTON: Good morning, Mr. Chairman, Assemblyman Girgenti. I am Charles D. Worthington, the elected county executive of Atlantic County.

I am certainly pleased to appear before this sub-committee of the Assembly County Government Committee to offer my remarks on the recently released Report of the County Penal System Study Commission.

The legislative mandate creating the County Penal Study Commission assigned far-reaching tasks to the Commission--tasks ranging from a comprehensive review of physical conditions and locations, to an evaluation of administrative procedures of county jails. The joint resolution also directed the Commission to evaluate the financial impact of any and all recommendations it might make.

Perhaps because of the magnitude of the assignment, perhaps because of the difficulties of obtaining the resources necessary to carry it out, the final product of the Commission falls far short of expectations and is flawed in many serious ways.

Notwithstanding this fact, I think it can be said that the study process itself and the report have and continue to have some positive effects.

Let me comment, first, on the Study itself, and then recommend actions at both the local and the state levels.

The Commission, as you well know, was set up by a joint resolution in February of 1973. Data for the study was gathered during 1973 and 1974, and several public hearings were held at county jails in mid-1974. The issuance of a report, fully four years after the last hearing, calls into serious question the validity of the data on which the report bases its conclusions and recommendations. Surely a study of this type can and should be executed in a more timely fashion.

Many things have happened during the last five years, things which bear directly on the subject matter of the report. Yet, a report is issued in 1978 based on data which can best be described as "stale", and there is nary a disclaimer to indicate recognition of this fact.

Grand jury presentments, in several counties, including Atlantic, have triggered some corrective actions in the intervening time.

In addition, county-funded or SLEPA-funded programs in Atlantic County have begun to address some of the problem areas identified, and to bring our jail closer to recognized standards. I hazard a guess that these changes are also taking place in other counties. An evaluation of county jails today, while still revealing some serious problems, would, I believe, indicate significant progress. To issue a report on out-dated data, and which, on that basis makes a blanket condemnation of all county jails, is irresponsible and counter-productive.

Let me also note the fact that during the last three years, five counties in New Jersey have become charter counties. Four of the five, during the last three years, have completely reorganized county government through development of administrative codes. That reorganization has resulted in clear lines of authority and accountability.

In addition, the presence of full-time professional administrative staff at the center of these four counties has resulted in some significant changes with reference to the administrative practices of the jail. I refer, in particular, to personnel practices and to accounting and budgeting practices. The report makes no mention of this important development in county government and to its impact on the administration of county jails. Again, this omission can be explained by the fact that in 1973 and 1974, when the Commission did its work, charter change was a hope, not a reality! However, to issue a report in 1978-- fully three years after charter change has become an important reality-- and to fail to discuss it, raises the question of how many other important things have been omitted.

A study of this type, properly conducted and issued in a timely fashion, can be of immeasurable help to local officials in focusing attention on problems, and in offering constructive recommendations and models for change. I refer to the many excellent studies of the Musto Commission, and to the significant impact they have had in facilitating progressive change at the local level of government.

Many of the issues raised in the original Joint Resolution have not been dealt with by this Study Commission. It would be a tremendous service to local government to have a thorough and systematic study of several of the issues,

accompanied by specific model programs. I refer specifically to Sections 3d and 3e of the Joint Resolution, namely the use of existing community resources for rehabilitation programs, such as work and study release, and the possibility of state and inter-county cooperation and sharing of facilities.

Let me turn now to some of the corrective actions being taken in Atlantic County with reference to the type of problems described in this report. I think it would be safe to say that these corrective actions are the culmination of a number of factors, and that the impetus of the Study Commission's initial investigation probably had some influence in marshalling the forces necessary to take these actions.

The convergence of several other important events has provided the necessary ingredients for change, in particular:

- ... The change to Charter Government, which increased administrative oversight and assistance;
- ... The election of a new Sheriff and the hiring of several professionals on his staff;
- ... The successful efforts of the Criminal Justice Planning staff in securing funding for innovative programs, which impact on the jail;
- ... The cooperation of every segment of the Criminal Justice system.

In general, we in Atlantic County have been operating on two fronts. First, we have directed our efforts toward reducing the number of pre-trial detainees held in the county jail, who need not be there. We have taken the following actions:

- ... Expeditious court scheduling for those inmates unable to post bail and being held in county jail;
- ... development of a successful Pre-Trial Intervention Program, which annually diverts about 150 minor or first-time offenders from the system;
- ... working with the Court Administrator and with municipal clerks to encourage increased use of summonses instead of arrest warrants;
- ... Application for funding to develop a jail population management strategy designed to eliminate or minimize the unnecessary use of incarceration, especially pre-trial detention. This plan will provide the County with concrete recommendations for expediting processing, including the development of an Intake Center. The pre-application for this grant has been accepted, and the County expects to receive funding for this study. On the basis of this study, we are prepared to move ahead to Phase II, namely the actual implementation of the plan.

We are equally concerned with improving the physical conditions of the jail, to bring it up to national standards, and with providing all necessary programs. Accordingly, we have:

- ... Authorized and received a report from the National Clearinghouse for Criminal Justice and Architecture, recommending general renovations to be made to our existing jail, which was built in 1961;
- ... Recommended to the Board of Freeholders the immediate selection of an architect, to draw preliminary plans, to renovate the jail as a maximum security facility, and to build a minimum security wing adjacent to the site. Such construction will allow for classification of inmates, for expansion of needed medical space, and for increased recreational space;
- ... Completed the conversion of a section of the old cell block area of the original jail to an indoor gym facility for inmate use;
- ... Increased the vocational classes being offered in the jail, through the vocational-technical school;
- ... Arranged through contract and county funding for alcohol and drug counseling in the jail;
- ... Implemented a successful work-release program;
- ... Developed a successful vocational services program to screen and render basic vocational counseling and training to offenders, ex-offenders, and arrestees. This program successfully services over 600 persons annually.

For over two years, the County worked to acquire a Minimum Security Facility to house the Work-Release Program. These efforts have been thwarted by local opposition to all proposed sites, this despite the fact that the program has been guaranteed external funding. It is now our expectation that appropriate space for this program will be provided in the renovation and construction project mentioned above.

In summary, through our combined efforts, Atlantic County has made strides in rectifying some of the most serious problems identified five years ago by the Study Commission. We still have a long way to go, particularly in the area of health care. With the continued cooperation of all segments of the system, those improvements will also be forthcoming.

Let me comment briefly on some of the recommendations made by the Study Commission:

Recommendation I

I fully support the development of enforceable standards, if these are devised with input from the counties. Atlantic County is currently at work, through the efforts of its Criminal Justice Advisory Board and staff, in developing standards for the administration of local corrections. The standards will be used to measure and analyze the strengths and weaknesses of our County jail, thus pinpointing problem areas. It is our conviction that such a process is imperative for rational decision-making.

Recommendation II

I fully support the professional administration of local correctional and detention facilities, and believe that this can be done within the parameters of the existing structure, and does not require the creation of an independent authority. I speak here from the context of a charter county where the emphasis is on curtailing the number and powers of independent authorities and on using the regular departmental structure of county government.

Recommendation III

I fully support the development of regional psychiatric holding and treatment centers as a means of providing needed psychiatric services to county jail inmates. Perhaps these centers should be jointly administered with the N.J. Department of Human Services to assure appropriate care and to prevent the development of warehousing mentally disturbed inmates.

Recommendations VI & VII

Atlantic County has established, in large part, programs which fulfill the concept of delivering rehabilitation services, and intends to bring its health and medical care services up to standard when the jail space reorganization program is complete.

Recommendations VIII, IX, & X

As mentioned earlier, Atlantic County is now embarking on a special project which involves the development of a comprehensive intake service central processing system, as well as a jail population management plan. In addition, space utilization and reorganization are part of the renovation plan.

Recommendations XI, XII, & XIII

Atlantic County has developed and operationalized these programs. In conclusion, Gentlemen, let me thank you for allowing me to appear here

today to present these comments. It is extremely important that the State understand what is being done at the local level, so that we may work together in a cooperative and supportive relationship. I would now be happy to answer any questions that you may have.

ASSEMBLYMAN HARDWICK: First of all let me thank you for coming to comment on the plan. I have a couple of questions for you. Did you have a reaction to Commissioner Fauver's recommendation that the county assignment judge be given the authority to mandate State changes and mandate funding?

MR. WORTHINGTON: Yes, and I am not at all sure that is the way it should operate. I am not at all sure that the funding and facilities of county jails should be in the hands of the assignment judge. You already have, in the counties, elected officials whose responsibility it is to provide necessary facilities and programs, and who are elected by the people, who are responsive and responsible and accountable to the people for the tax dollars that they are charged to spend, and I think that is the appropriate forum, the elected officials.

ASSEMBLYMAN HARDWICK: What would be your recommendation in the event that the State and the county are at odds over standards, as to whether or not a jail meets standards? How would you resolve that?

MR. WORTHINGTON: Well, I think first of all, the standards have to be developed cooperatively, and if they are developed cooperatively, then I think it is the responsibility of that county government, if it agrees to those standards, and it has had an important input in the development of those standards, to comply with them. The kind of standards that most governmental agencies or local governments object to are the ones that are developed outside and mandated without any input from the local governing jurisdiction.

ASSEMBLYMAN HARDWICK: I believe that you are the first witness, other than Dean Irving, who has supported Recommendation III of the regional psychiatric holding centers. In any event, if you are not, it is still a minority position. Would you just elaborate on that? How do you feel the health care in the county jails--to what extent do you think it is adequate or inadequate?

MR. WORTHINGTON: Well, I think, to some extent, we have made some tremendous changes within our local system, in terms of controlling drugs, for example, and in terms of providing better nursing, and medical assistance there. I still think there is a lot of room for improvement, and part of the problem is also the intake process, and part of that problem is compounded by lack of adequate facilities and lack of adequate minimal facilities. I think we have adequate security, long-term security facilities, but our problem is we have got to develop, I think,

better processing, better intake, better classification programs so we can pick out and separate those people who need care, and I don't think care can be provided in the local jail, and I don't think it is a problem confined only to the jail and the penal population. I think it is a pervasive problem that the State and the counties have to face up to, providing adequate mental health facilities and providing those kinds of opportunities for people who are in need. I think the problem has been compounded, too, by the number of geriatric patients, who are being warehoused in State institutions, mental institutions, when they don't belong there. We have the wrong kind of people in some of our institutions. I think it is a costly process, and I think we have to take a hard look at it.

ASSEMBLYMAN GIRGENTI: Mr. Worthington, the only question I have, and it was just brought up out of our last meeting really, is the later recommendations in terms of the rehabilitation counselors, and the areas like that. One of the problems we find, they say that the average stay of a prisoner is fifteen days in a county jail, so, how can this be fitted effectively into the overall structure, if the person is only there for a short period of time? How can you really have any kind of impact?

MR. WORTHINGTON: Well, I think average figures are often deceiving. If you say the maximum stay is one year, or quite a few prisoners are detained from six months to a year, or from three months to a year, and someone is in and out in one day, as a prisoner or detainee, then that tends to pull the average way down. I think that we have a vocational rehabilitation program. We have had counseling programs, and we have alcohol and drug counseling programs in our county jail. We have work release programs that are effective in operation, and we have programs all set up, vocational programs to get the ex-offender jobs, and to get them back mainstreamed into the community. I think five years ago, we probably didn't have these kinds of programs, or maybe just portions of them. But, I think an awful lot has gone by, programatically since 1973, and that is one of the problems, I think, with the report. There is no recognition of, in certain counties, the tremendous strides that have been taken on the problems that were recognized in 1973.

ASSEMBLYMAN GIRGENTI: I fully agree with what you said in terms of them. I don't think enough has been made of that point, that a lot of this information is way outdated. There are changes in certain counties where you have a whole different structure operating the jail systems, as a result of the whole different structure in the county government. I think that is a point well taken. The only

other question I would have, as we said before, the one thing everyone seems to agree on is there should be some type of standard set, enforceable standards. Now you said very strongly that you feel there should be definite local input into this type of system. How can we come about with that type of thing, set up a commission or committee, or have each county represented?

MR. WORTHINGTON: No. We are already working on our own through our Criminal Justice Planning Unit. We have a real strong and fine Criminal Justice Planning Unit and we have good staff with it. We are going on our own and developing what we think our standards should be. I am sure we are also utilizing some of the national codified standards that some of the associations have put out to incorporate it. But, I think all of the counties are probably doing the same kind of work now. I think this job of getting standards assembled with local input and with professional State input is a lot easier to achieve than one would imagine.

ASSEMBLYMAN GIRGENTI: Well, I would feel that you would want to have the sheriffs on this type of thing or whoever is running the jail at the present time, to have that input, instead of having something dictated from up on top and telling everybody what to do, and instead of some bureaucratic process where they are actually mandating it from the State level onto the local level. That I see as a definite problem.

MR. WORTHINGTON: I think, also, the keepers of the purse, the local governing bodies, the freeholders, the county executives, and the county administrators, who are charged with responsibility of maintaining a budget within State guidelines, which is very difficult under the 5% cap, which, in county government, you know, is not 5% on what we spend, but only 5% on the tax levied, which is generally only half or less of the total revenues that we spend. So, we are really hurting. If you don't recognize those kinds of constraints, then any kind of standard that you develop, I think may be wishful thinking.

ASSEMBLYMAN GIRGENTI: You have been very informative. Thank you very much.

MR. KATZ: Mr. Worthington, I am just curious. As the County Executive in Atlantic County, do you review the budget of the county jail, and do you pass judgment on that?

MR. WORTHINGTON: Yes. We propose the budget to the Board of Freeholders for adoption. I present to the Freeholders, on or before Jan. 15 of every year, an executive budget, and that budget has been adopted, in the last few years, with very little change. Now, we in Atlantic County have a programmatic budget and we

have quarterly budget reviews. So, we don't only think of the budget one time a year. Our budget is an ongoing, living document, which is reviewed consistently. So, we have a quarterly review, a semi-annual review, and then our third quarter review is really the preparation of the new budget. So, it is a continuing document. Yes, we present a unified county budget, including welfare, including court systems, including sheriffs, county clerks, surrogates, and whatever.

MR. KATZ: Does your office visit the jail?

MR. WORTHINGTON: Have we visited the jail? Oh my god, yes. In fact, I do it annually on Christmas, just to see that everyone is well fed and sing some Christmas carols.

ASSEMBLYMAN HARDWICK: Thank you very much. In our last hearing Undersheriff Brown raised an issue, health care in the county jails; and so, we have asked Dr. Napoleon, from Cape May County, to come this morning and talk about his experiences in the county jail. Dr. Napoleon?

D R . J O H N J . N A P O L E O N : Good morning gentlemen.

ASSEMBLYMAN HARDWICK: Good morning and thank you very much for attending. I understand you do not have a prepared statement.

DR. NAPOLEON: That is correct. I was only recently notified of the fact that you would like someone from the medical profession to appear and I understand I am appearing in lieu of another physician, who was unable to attend. So, in that regard I did not prepare a lengthy statement as did the former witness. Nevertheless, it is a pleasure to appear before you and be of service.

I understand my remarks are to revolve around the area of inmates being referred to and received back from mental institutions.

ASSEMBLYMAN HARDWICK: The statement that was made by Undersheriff Brown was that he receives in his jail many prisoners that are mentally disturbed. He refers them to a State institution and they come back, I believe his words were, in worse shape than he sent them, and he has urged us to have a physician at our next hearing to comment on his experience. So, that was the reason that we asked that a medical person attend. So, would you tell us a little bit about your background and how you work at the jail? What are your hours? What is your arrangement? That kind of thing is what we would be interested in. Maybe we should start there.

DR. NAPOLEON: I am a physician in general practice of medicine in Cape May Courthouse and I have practiced there for twelve years. For the past seven years, I have been employed by the County, as the physician at their correctional institution.

Myself and my associate, Dr. Robert Steinman, live in close proximity to the jail, and are on call 24 hours a day--that is to say, when I am not available, he is and vice versa. We conduct, generally, three sick calls a week at the County jail and are available, again, on a 24-hour basis for any emergencies that may come up, whether they require our attendance, whether they require our referral to another institution, or even if they just require our advice over the phone.

ASSEMBLYMAN HARDWICK: How do you feel about Undersheriff Brown's statement? How frequently do you have inmates, whom you characterize as mentally disturbed?

DR. NAPOLEON: I would have to concur wholeheartedly with Sheriff Brown's remarks. I have many, many occasions to refer people to the local mental facility, that is to say Ancora. For the most part, I would say that when they return to the correctional facility, they are, at best, the same as when I sent them, and frequently they are worse. Many times I am able to question these people, and there are some I believe and some I do not, but frequently I find that they have not even been seen by a psychiatrist up there. Their medical history is taken, from the information I can gather, by some type of technician in the mental health field, and they are given a drug like thiorazine for eight or ten days, which is generally the length of the confinement--I think it is a seven or ten day confinement I can send them for--and they come back with exactly the same problems; they come back with absolutely no recommendation from a psychiatrist, which I would like to see. You know, as a general physician, I would like to see someone with more expertise than myself suggest to me something that I might do to help the prisoners, but that is not the case.

I don't know if you are interested in this aspect of it, but I am very fortunate where I am, to have almost across the street from the county jail the Cape May County Guidance Center, on which staff there are several psychiatrists, and I can do a lot better with these prisoners, particularly when I have a difficult case, by asking one of these psychiatrists to come over and see them in consultation and make recommendations. Far better it is for the prisoner, therefore, from the standpoint of security and other items, that he be seen right on the spot, be medicated by an expert, and have the general physician watch for things like drug side effects and watch for things like the effectiveness of the program that the psychiatrist recommends.

ASSEMBLYMAN HARDWICK: Well, what do you do then, when an inmate comes back and is still mentally disturbed, and you are his physician? What course of action or treatment do you take then?

DR. NAPOLEON: I, personally, generally, call in the psychiatrist to evaluate him for me. When they go to Ancora and come back worse, I automatically assume that perhaps the expertise of the psychiatrist would be helpful.

ASSEMBLYMAN HARDWICK: Do you talk to Ancora? Do you talk to the physicians there? I mean, is there communication between the jail and the State hospitals when you are having transfers? Do you have a dialogue with them about the prisoners?

DR. NAPOLEON: When I talk to them, it is only in the admission process. The physician at Ancora, if indeed I talk to a physician, is only interested in; Look, do you really think he has to come up here, Doctor? Do you really have to send him, Doctor, because we are overcrowded now? Of course I describe the symptomatology to him, and describe the problems that I am having with him, problems that I am unable to surmount myself. Very often they are reluctant to take him, because of the situation that they have there already.

ASSEMBLYMAN HARDWICK: What are the most common diagnoses you would make of a mentally disturbed patient? What do you see most often in a jail? Can you generalize?

DR. NAPOLEON: I see acute anxiety, acute depression, schizophrenia. I would say that they are the predominant things I see.

ASSEMBLYMAN HARDWICK: Do you feel qualified to make diagnoses of inmates who may be dangerous to other inmates, or to society, if released, inmates who have anti-social kinds of disorders?

DR. NAPOLEON: I do feel qualified to make that diagnosis, but generally when I do make a diagnosis of that serious a nature, I like to call in the psychiatrist to have him collaborate with me.

ASSEMBLYMAN HARDWICK: What is the funding arrangement for treating patients at the mental hospital? Does the county pay the State? Are you familiar with that?

DR. NAPOLEON: I don't know, sir.

ASSEMBLYMAN HARDWICK: How about when you refer them to the center across the street; do you know what that arrangement is?

DR. NAPOLEON: I don't know. Perhaps the Sheriff would know.

ASSEMBLYMAN HARDWICK: Do you know Sheriff?

SHERIFF FOX: On the first question, the county does pay Ancora through our County Adjuster. On the second question, I think it is part of their county services already paid, that they will accept any kind of work from the county jail. So, I know of no charges on the second question.

ASSEMBLYMAN HARDWICK: Did you read the recommendation of having regional holding centers, psychiatric holding centers, that Mr. Worthington endorsed? Are you familiar with that?

DR. NAPOLEON: I didn't read the whole thing, but I am familiar with it.

ASSEMBLYMAN HARDWICK: Would you explain how you feel about that as a recommendation?

DR. NAPOLEON: Offhand, I would think it would be a good idea, providing, of course, that those holding centers had the appropriate, professional personnel to help someone when they are being held there. Otherwise, they would, to me, be just another Ancora: send them there; hold them there; tranquilize them, until the detainer, or whatever it is, is up; and send them back. I would like to see someone who is sent to that holding center, be sent back to me with something constructive having been done, such as the appropriate therapy, the appropriate analysis by the psychiatrist, and the appropriate recommendations for me to follow.

ASSEMBLYMAN HARDWICK: You say that you conduct three sick calls a week. Is there a routine screening of prisoners for medical problems? Could you explain how you approach a prisoner normally? Is it required for you to see them if they don't have any complaints, or do you wait for complaints?

DR. NAPOLEON: Generally, I wait for the complaint. A prisoner fills out or has one of the sheriff's officers fill out for him what they call a "sick slip." His name and what tier he is on is on there, and the complaint by the prisoner is listed thereon, along with any observations that the officer may have also made.

ASSEMBLYMAN HARDWICK: Well, if a prisoner is suffering from depression, for example, or acute anxiety, they may or may not even file a sick slip, would they?

DR. NAPOLEON: That is within the realm of possibility. However, as a practical matter, that is picked up very quickly either by the admitting officer or by the guards who are assigned to watch that prisoner, and frequently by the other inmates themselves. They will report that there is something wrong with this fellow, he is acting strangely, he won't eat his food, he won't put his shoes on, he cries, things like that. Those cases are immediately referred to me by the sheriff's officers, even though the inmate himself may voice no complaints whatsoever and in some cases say, I don't need to see the doctor, I don't want to see him. I see them anyhow.

ASSEMBLYMAN HARDWICK: In your particular jail, how do you control the dispensing of pharmaceuticals? When you order something for the inmate, do you have a pharmacist on hand, or a nurse, or what?

DR. NAPOLEON: I do not have a pharmacist on hand. Certain officers are

delegated by me to distribute the medication. Not every officer distributes the medication. I have several officers that are more familiar with the medical field than others in that they are qualified cardio-respiratory resuscitators. I forget the exact title.

ASSEMBLYMAN HARDWICK: Paramedics, that sort of thing?

DR. NAPOLEON: Yes, something along that line. They become accustomed to the routine of distributing the drugs, and they always have me on call. I live a thousand yards from the jail, and they are able to communicate with myself or my associate should any discrepancies arise as to dosages. I write my instructions out in long-hand; in other words, I don't write them as I would on a prescription that only a pharmacist could understand. I write, "three times a day."

ASSEMBLYMAN HARDWICK: Not "TID?"

DR. NAPOLEON: Not "TID," right. Believe me, it doesn't take a registered nurse or a pharmacist to take three pills out of a bottle and give it to somebody.

ASSEMBLYMAN HARDWICK: So, you are satisfied with the controls with the ordering and dispensing of the pharmaceuticals?

DR. NAPOLEON: I am. Experience-wise, in seven years at the county jail, I have never had a situation whereby a dosage was off to the point where anyone's health or life was compromised.

ASSEMBLYMAN HARDWICK: Going back to the referrals to the mental hospitals, do you see the problem as one of competence or one of resources at the mental hospital, or do you know?

DR. NAPOLEON: I think it is more in the realm of resources. They just don't have the manpower to do it. A friend of mine, whose name I do not care to mention, a physician that I graduated medical school with, was resident in psychiatry at Ancora. He told me pointblank, John, we don't have time to see the people that you send here. Frequently they are not seen by a psychiatrist. Some are, but many times they are not.

ASSEMBLYMAN HARDWICK: Do you maintain the drug therapy which they place them on at the hospital when they come back from the jail?

DR. NAPOLEON: I maintain it, yes, unless after several days I were to find-- for instance, suppose they were to put someone on thorazine up there--I use the term Thorazine, because it is the most popular drug in that field--that patient may do well on that for the first six or seven days, and by the eighth or tenth day, become overtranquilized. In other words, the effects of the drug are sometimes cumulative and if by the tenth day I find the guy slumped over in his chair, I would either

reduce the dosage or try another drug.

ASSEMBLYMAN HARDWICK: Doctor, after the inmate is discharged from the jail, is there a referral service, if you know that he or she needs follow-up psychiatric care? Is there a way that you can do that? I mean, they are only under your care for a fairly short period of time, and if you pick up that they have a problem, what happens then?

DR. NAPOLEON: To my knowledge, as of this time, there is no referral service. Maybe the Sheriff can correct me.

SHERIFF FOX: Other than the Guidance Center, which would be the out-patient referral that the citizens in general have available to them---that recommendation can be made, which again is in the same area that we are located.

DR. NAPOLEON: As a practical matter, when a psychiatric patient leaves the correctional facility, I will always say to him, "Now listen, I want you to see Dr. X on a regular basis, unless he discharges you." But, as a practical matter, when they leave jail, they don't go and see anyone.

ASSEMBLYMAN HARDWICK: Assemblyman Girgenti?

ASSEMBLYMAN GIRGENTI: I just have two questions Doctor, just to follow up a bit on what was said before in terms of the dispensing of the medication in the jails. We have had comments from certain people that are guards that do not want that responsibility and fear it in other jails. They have mentioned that to us. What is your overall policy in terms of all the facilities? You don't feel that a nurse is necessary or a doctor, that the medication could be distributed by a guard? Would he have to have some kind of training like you said, or some kind of a course, some kind of standards? Who would determine that?

DR. NAPOLEON: I think, in truth, the guards are reluctant to distribute medications, only from the medical-legal standpoint. They are afraid of being sued. Many of the guards in our facility are college graduates. I know this guy can take an orange pill out of a bottle and give it to a fellow three times a day. He is just reluctant. He sees the doctors being sued on a daily basis. He sees that even the nurses are being sued and that they have to have malpractice insurance. Practically, I can tell you this, in the hospital environment where I practice, very close to the jail, whenever an error is made with respect to drugs and the dosage, an incident report is filled out and has to be signed by the attending physician. By the same token, if anything goes wrong in the jail, I am called upon to oversee it. The incidents with RNs in the hospital of drug misdoses are much higher than they are in the county jail, because the officers are really very meticulous. It is not

unusual for me to get two or three calls a day from an officer, just checking, just making sure to see that everything is OK. So, the incident at the hospital is far greater than that at the jail, as far as the misdoses. I think, in conclusion, that a correctional officer, properly trained and properly supervised, could very adequately give the appropriate drugs, with the appropriate instructions.

ASSEMBLYMAN GIRGENTI: In the report, there was mention made that prisoners come in and they are given tranquilizers, if they are in a psychotic state, etc. It even went to the extent of saying that government becomes almost, the word they use is a "drug pusher," and part of the quote was, "sworn testimony in two counties indicates that easy dispensing of drugs develops a drug dependency among inmates. The testimony of a male nurse at the Camden County Jail, for example, appears in the prefixed report: The cycle develops this way, a new inmate rests all day in his bunkbed, because there are no other outlets for him. At night, he is not tired and soon begins to ask for sleeping pills. To keep the inmates quiet, pills are the path of least resistance. During the day the inmate becomes jittery and stir-crazy, and begins to get tranquilizers during his waking hours, and after six months, many such inmates have a drug dependency." Could I have your opinion on that, and based on your own experience, is this something you find as a fact?

DR. NAPOLEON: I think that is certainly within the realm of possibility at other institutions. But, I only have expertise in my own. I, personally, am very strict about the use of tranquilizers in my facility. I don't give a lot of them out, and believe me, I get in a lot of trouble over it. I have been reported to the American Civil Liberties Union and other such organizations only because I refuse to maintain somebody's habit that they had out on the street. Now, I am very fortunate in that I have at my disposal a new, I think it is a \$3,000,000 jail. It is big. It is roomy. It is pleasantly colored, with pastel colored bars. There are ample facilities for recreation, such as baseball, football. I think the inmates even play some local teams. We have a weightlifting room. So, I don't encounter that problem as readily as a doctor, say, in Camden County might. Nevertheless, it is very possible. I don't believe in tranquilizing anybody during the daytime, especially in my jail, because I want them to go out and play basketball and football, and lift weights, and even argue and spar around with the other inmates, because then, at night they will sleep. If I tranquilize them during the day, as they demand, then they lay awake all night and they get in trouble. They will break a TV set, they will break another fellow's jaw, because they are sitting around with nothing to do. Again, that could exist, but it doesn't in our facility.

ASSEMBLYMAN GIRGENTI: Do you ever have contact with doctors from other facilities? Is there any kind of informal arrangement? Do you ever talk to doctors from other facilities or jails?

DR. NAPOLEON: I don't know if this is what you are talking about, but in that regard, again, I am very fortunate. Five hundred yards from our correctional facility is the hospital. I frequently use the hospital.

ASSEMBLYMAN GIRGENTI: No. What I am trying to say is, do you ever talk to other jail physicians or people that are located in jails, and do they speak about this as a problem? Has this ever come to your attention before, in terms of these tranquilizers?

DR. NAPOLEON: My communications with other jail physicians were generally, in the beginning of my employment in the County, when I sought their advice. I would call on other physicians and say, "What do you do in a case like this?" But, recently, no. I find myself having served longer than some of the other fellows.

ASSEMBLYMAN GIRGENTI: Thank you. That is really all I had.

ASSEMBLYMAN HARDWICK: Doctor, I only have one other question. I am interested in your medical policy concerning dental care in the jail. Do you yourself inspect the complaints about teeth? Do you refer an inmate out for dental care? Exactly how do you approach that?

DR. NAPOLEON: All dental complaints come before me. I examine, personally, every tooth that has an ache. My finding is that, for the most part, the complaints are the result of a lifetime of neglect. Frequently, an inmate will tell me, "Doc, I got problems with my teeth." When I open his mouth, it is a horror story. The tooth decay is just a minor aspect. More importantly, they have gum disease that is rampant and frequently need three to five thousand dollars worth of work on their mouth to restore it to any kind of useful state. I do refer them to a dentist. I have a very large number of dental referrals. Only last evening, I sent four people to the dentist, or to the oral surgeon, if they need an oral surgeon. It is very difficult for us to assume the responsibility, dental bills being what they are today, for a fellow who has neglected his mouth for twenty years. Nevertheless, we do the best we can. With regard to mouth injuries sustained in the County Jail, naturally we take care of them immediately.

ASSEMBLYMAN HARDWICK: Do you do extractions only, or do you do fillings?

DR. NAPOLEON: Oh no, we do fillings, certainly. We do a lot of fillings. I refer people to the dentist frequently. In fact, I have a backlog of prisoners waiting to go to the dentist, and I advise them to take care of their teeth, you

know, the same advice that the dentist would give you, take care of your teeth, you only have one set. I will frequently tell a prisoner, "Look, don't let the dentist pull it, if he can save it. Try and get him to fill it. If you get two or three years out of a tooth, you will be that much better off, because it will prevent the remaining teeth from shifting into a poor position." I emphasize that with my prisoners, that their teeth are very important.

ASSEMBLYMAN HARDWICK: One last question. If you had increased funding to apply for medical care, how would you use it in your particular situation? What would you do with more money for health care for inmates?

DR. NAPOLEON: I would really apply the money to the area of the mentally disturbed. I can very adequately care for the broken bones, broken teeth, cuts over the eye, and all the general medical problems, and I can very adequately handle, with the aid of the specialists at the local hospitals, some of the more specialized problems. The area where I am up against a stone wall is the area of mental health. I would apply it to these mental health holding centers that you referred to, because there I think it would do the most good.

ASSWMBLYMAN HARDWICK: Thank you very much. Your testimony is much appreciated, somewhat disturbing, but we certainly appreciate your coming back, Doctor.

Why don't we take a five-minute break? We have only one more witness. Is Mildred Mortimer here? Thank you. OK, we will take a five-minute break.

(AT WHICH TIME A RECESS WAS TAKEN)

ASSEMBLYMAN HARDWICK: OK, for our last witness--would you give us your name, please, and tell us who you are affiliated with?

M I L D R E D P R E E N M O R T I M E R : Yes, Assemblyman. My name is Mildred Preen Mortimer. I am the County Administrator for the County of Hunterdon. I speak today with two hats. First I shall speak as the Administrator of the County, and representing the Director of the Board of Chosen Freeholders, Mr. George Muller, who was unable to be here today. Secondly, I would like, afterwards, after I present my remarks with respect to the Board's concerns, to speak to you as a former legislator, from the County of Hunterdon, when it was a single-member district.

Members of this select sub-committee, Hunterdon, as you perhaps may know, is a semi-rural county. It has approximately 80,000 persons in population. There are a total of twenty-six municipalities, comprised of one city with less than 5,000 population, located in the southern end of our county. We have eleven boroughs, one town council, and we have thirteen townships. Hunterdon County's budget

provided for a total appropriation of some \$10,299,000, of which some \$7,450,000 is raised from the 1978 County Purpose Tax. Hunterdon County does indeed respect the action of the Legislature for having created the Penal Study Commission, and as a result, we have the report that was issued sometime ago. As a result of the joint Resolution #3 that was approved on Feb. 27, 1973, wherein the Commission was charged with the responsibility to recommend improvements in the county penal system of New Jersey---the duties of the Commission were clearly outlined in that resolution, as in Paragraph 3G, wherein the Commission was instructed to study all such other matters relating to the subject of county prisons, as the Commission may deem appropriate and to evaluate the financial impact of any recommendations it shall make. There has been, as a result of this initial joint resolution of the Legislature, positive action taken, as you well know, and these positive results have already been distributed to the counties, as standards for detention centers. They are being followed to the best of their ability, by our Sheriff and our Warden, who sit here at this same table.

There has been a great deal of controversy generated from the issuance of the Penal Study Report, much of it because of the criticism thrust at the sheriffs of the various counties, and such opposition now has taken the form of a concerted effort to oppose the creation of Penal Authorities for the operation of county correctional facilities and/or county jails. This has been done by a number of counties, and with good reason. Hunterdon County has joined its sister county of Morris in opposing the creation of such a Penal Authority. This opposition by our Board of Freeholders is based on their belief that a correctional facility should be operated, not only with professionalism, but with accountability to the electorate. Presently, the Hunterdon County Sheriff, and the warden, who reports to the Sheriff, are responsible for the operation of the current jail system. The Freeholders provide the money for the operation, as can be seen in our Manual of County and Municipal Officials, which I will distribute for your perusal later. The Freeholders, by resolution on July 25, 1978, formalized its opposition to the creation of such Penal Authorities for the operation of County correctional facilities and jails, and a copy of that resolution, if you have not already received it from our Clerk of the Board, will be attached, for your perusal, to the remarks, which will be submitted to you. Hunterdon County opposes the imposition by legislative fiat of such an authority. The County, however, through Freeholder discussion, does agree that there should be a standard for jail or county correctional administrators. The County has taken recent action, whereby it has provided that all those officers, who shall function and are presently doing so in the County Jail, shall be designated County Correction Officers. This has been

at the behest of the Sheriff and the Warden, who for many years has been trying to have this accomplished. There is a recognition by the Board of Chosen Freeholders that correction officers are indeed different and apart from Sheriff's officers. Hunterdon County, however, is unique among the smaller counties in having recognized its responsibilities to the public, whether it be in the field of recreation, communication, fiscal control, or administrative control. We are a small county, but this professionalism has been seen in the last few years by the hiring of, not only a professional recreation director to promote a park system; but secondly by the hiring of a communications director, who has been responsible together with Freeholder support, for foundation grants, and LEA assistance, and now County funding for the first 911 system in the State of New Jersey; and thirdly through the institution of fiscal control by the creation of the office of the County Comptroller; fourthly, administration control by the creation of the statutory position of County Administrator. These actions are all a part of a pattern that the Hunterdon County Freeholders have developed for the future needs of the County. Likewise, the Board of Chosen Freeholders has provided a blueprint for its future correctional needs. The Freeholders, under the urging of the present warden, who has been there for a number of years, have provided for a feasibility study of correctional needs, which was completed on Sept. 1, 1975. The selection of the architect's preliminary site clearance work all culminated in architectural plans and specifications, which the Board of Freeholders hopefully, hopes to go out to bid for in mid-September for a County Correctional Facility, which, hopefully, will be a reality in the early 1980's. This facility is not only the result of the Hunterdon Freeholders, as I said, that have been dedicated in the last few years, although there have been many travails with citizen opposition, There has been the insistence on the part of the warden, and there has been the encouragement by the judicial system to assist the Freeholders with the help that was needed to get over the original hurdles. Hunterdon County has taken the additional step these past few months of requesting funds from the State Law Enforcement Planning Agency for a criminal justice planner. They requested funds. SLEPA was reluctant. They were not about to give us any, but they did on the special request of the Director of the Board, who appeared before the Board within the last few months. SLEPA has recently awarded the County funding for the creation of this new position starting in the year 1979, and hiring for such a planner will commence later this fall. The Hunterdon County Board of Chosen Freeholders will additionally be creating a Criminal Justice Planning Board. The Board will be facing many decisions within the next year, and I am talking about the Board of Freeholders, at this particular moment, of whether or not it shall separate from the control of the Sheriff by the

creation of a separate corrections department. The Board of Freeholders feels, in this instance, that they will have to take into consideration that SLEPA considers favorably grant proposals that come to them as a result of county correctional facilities and programming, rather than grants that might come under a sheriff's jurisdiction. There are still many decisions to be made. There is no doubt that with the creation of the new correctional facility that deep thought must be given by this present Board of Chosen Freeholders as to the continuation of the present manner of the control that the Sheriff now exercises with the Warden. There have been suggestions by prominent criminal justice consultants that a separate department of corrections have the warden designated as the chief executive officer accountable to the Board of Chosen Freeholders in all areas of function, including personnel practice, responsibility for budget, and the daily operation of such a facility. I believe I can speak for the Freeholders when I say that the Board will be leaning heavily on citizen participation and input from those who will be appointed to the Criminal Justice Planning Board, soon to be created.

If the committee will look to the definition of the term, warden, in its deliberations, as to where the committee shall go in the creation of an administrator officer title, if such shall finally be their decision, but without the additional authority, and if it shall be that they come up with an administrative officer title, as a requirement by all counties, to handle all the problems and details of a modern correctional facility, which will undoubtedly evolve, it should look carefully to the role of the Criminal Justice Planning Board in each county, as to whether advice should be taken from them. Now, if the committee looks at the definition of a warden as stated in the New Webster Encyclopedic Dictionary of the English Language, the following will be found: "Warden, from wardein, a Germanic word with a Latin termination, meaning a guard or a watchman; an officer of rank in charge of something; a keeper." The title also has been given to the head of some colleges and to the superior of some conventional churches. This terminology is in keeping with the old thinking that a warden was just a keeper. Today, a warden is not only a keeper, but he must be a manager. He must be an administrator. He must have fiscal ability to project budgetary needs. In fact, he must take on the term, administrator. The dictionary provides that an administrator is one who administers, directs, manages, distributes, or dispenses. We turn now to the word, corrections. "The act of correcting, the removal of faults, punishment, discipline, and chastisement," and we all know that the new theory of correction is that you have the power to correct, you have the quality of removing or obviating what is wrong or injurious. Of course, we are presently locked into a system where we use the term, warden.

I speak to you now as a former Assemblywoman, not as a county executive. I speak for myself, and not for the County. I know it is the duty of this committee to produce positive legislation. I would suggest, for myself and not as a Freeholder representative, that your committee first study and then, possibly, draft legislation, if this is what you are to do, as a result of your study of this Penal Commission Report, in order that the present statutory term that is created for warden be changed so that there be a phasing out, finally, of this term within a period of perhaps five to seven years, in order to give the counties time to reassess their positions. I would suggest that there be a revamping of the statutes to provide that the title be changed where there are, presently, new correctional facilities that will be in the offing within the next five years; that such title be that of a Correctional Facility Administrator, with a term of office of, preferably, at least a minimum of four years, in order to overlap the Freeholder term of three years, to avoid any charge of political favoritism; to provide professional standards such an administrator should have, to have the professional correctional training, to have educational standards, demonstrated administrative training and ability, specified criminal justice required courses, and additionally to have worked at least one year in a county correctional facility in some jurisdiction; and that there be close communication and an advisory role for the Criminal Justice Planning Board; and that such correctional administrator report directly to the Board of Chosen Freeholders. I request that your committee also consider the allocation of a form of revenue funding to the counties for the upgrading and the necessary compliance by the counties with the State mandated standards, which the counties have had placed upon them.

Hunterdon County has taken the initiative in providing for a correctional facility without having gotten funding for bricks and mortar. There was an ordinance, #677, passed by the Board of Freeholders on Nov. 22, 1977, in which some \$3,255,000 was allocated and appropriated out of a total authorizing issue of \$4,675,000.

Now, to return to the reports and recommendations of the County Penal Study Commission, I have gone over this thing four or five times--as for some of the Freeholders, some of them have not had a chance to thoroughly go over every one of the recommendations. As for myself, though, I do agree that there should be financial support as included in Recommendation I. This is absolutely necessary under the present restrictions under which counties are operating with the 5% cap. We need help.

With respect to Recommendation II, the County and the Freeholders do not agree, and that is with respect to the creation of a County Correctional Authority, which I have already spoken about. There is no need to belabor it anymore.

With respect to regional facilities, Recommendation III, I would think each one of you might get positive recommendations from the wardens, who have faced these problems daily, especially those who have been in this field for five to ten years. They have seen the gamut of those persons who have mental problems, and who have the need for care. I have seen it too, having served the County as the County Adjustor. I have seen the problems, and I am familiar with some of the problems. As to whether the County or the County Board of Freeholders would agree with this, I imagine, if, upon the recommendation of the warden, he felt that this was an advantageous recommendation, that they would go for this, providing there was funding. This is what we do need. We need to have additional funding, and there should be a facility that is adequately staffed.

With respect to Recommendation IV, recommending the strict adherence to the National Sheriffs Association's standards and guidelines, these are being followed now by our present Sheriff and our Warden. I am sure our Freeholders would agree with that and would not take any offense at my stating that.

With respect to Recommendation V, this could be rather expensive for the County. There is, possibly, a real need for the investigation of complaints by inmates. However, presently we do have a system whereby we have a reverend, who does listen to the complaints. Am I not correct in that? He is a person, who is readily available to come in and to listen to inmates, not only complaints, but problems. But, definitely, that is going to be an expensive requirement for the counties, if you were to do anything like that.

With respect to Recommendation VI, a rehabilitation services component, I think this could be accomplished, of course, with SLEPA funding.

With respect to Recommendation VII, healthful surroundings, we heard testimony, previously, by a doctor, who is faced daily with these problems. Our County is fortunate indeed, in having a hospital located within a mile and a half of the County Jail, and our warden has been very sympathetic and has trained his men to recognize problems where an inmate is sick. We are fortunate in having had the cooperation of the hospital to date. Is that not true Warden?

WARDEN ATKINSON: Right. We have 24 hour physician call, too, daily call. We have several. We have four that we can call.

MS. MORTIMER: With respect to Recommendation VIII, on the rehabilitation services counselor, a 48-hour provision, perhaps, would be better in this particular instance. This could be accomplished by the provision of funds, too. Most of the problems require funding, and of course, we all know that that is one of the reasons being given as to why some things are not being done, and it is, in fact, a legitimate

excuse.

Now, with respect to the classification committee meeting within 72 hours of reception, and especially if it was to be composed of all these people, and if it was made a requirement, you might not be able to accomplish that within 72 hours-- I am not sure how the warden feels about that particular recommendation--but I would suggest, at least, within five days, rather than 72 hours, if this committee feels that is a viable recommendation.

With respect to Recommendation X, regarding housing, I think that the County is doing what it felt it had to do. The County is providing for the construction of a new facility. Now, I do believe, and I am quite sure of this, that living quarter assignments are based, presently, in Hunterdon County, on the relevant facts and not where an empty bed exists, especially if they are not crowded. Is that not true, Warden?

WARDEN ATKINSON: It is true, other than the fact that we are crowded all the time. We don't have very much room. I will say this with "tongue in cheek" with the Advocate's office here--we have 48 beds and 25 cells, so you know what we are dealing with.

MS. MORTIMER: But, this is due to the summer situation, is it not?

WARDEN ATKINSON: That is pretty much a permanent thing now, because our population has grown, our work release program is making good strides, and we have taken the horse by the tail on that. We have also used, for our sentenced people-- we are able to separate our sentenced people from our unsentenced people, but there is no classification, insofar as that goes. So, that takes up our space.

MS. MORTIMER: But, we are going to provide for this in our new area.

With respect to Recommendation XI, the social work counselor, here is another area where SLEPA funding and programming could assist and help the Sheriff's Department and the Warden, who work with her.

With respect to Recommendation XII, here you have another indication, the immediate development of educational, vocational programs in the county jails of New Jersey---

WARDEN ATKINSON: That is being provided in the new facility, but nothing in the old.

MS. MORTIMER: There just isn't space. The facility was built in 1926.

With respect to pre-release preparation, the Sheriff, who, incidently, has worked for many years as the Deputy Sheriff, and is quite familiar with all the procedures that are used in Hunterdon County, has instituted, many years ago, a work release program, so that we were in the forefront in that area.

Now, with respect to the findings of Arthur Brown, I felt that his chart was exceptional in that it showed some of the details that other counties would like to know. Of course, it needs updating; for instance, the figures with respect to Hunterdon County, which he showed to be a population of 24, whereas we now have a population of 46, as you have been told by our Warden.

I don't want to belabor the issue, but there was a question brought up about malpractice insurance. I think this committee, as one of its recommendations, could probably suggest to other members of the Legislature, either through its recommendation or through its final report, if it so wishes, that there should be a State Insurance Program to protect, not only the county jails, but to protect its own State system. I think this is an area that the Legislature has to address itself to, because of the tremendous awards that are being given, and I think not enough attention has been given to this, because you were quite right, when you questioned the gentleman who spoke before, and he was right, too, in asserting that many times, people are afraid to take action, because of the fact that they might be sued.

I hope I haven't taken up too much time. I know the urgency of your trying to get to your other work, and the fact that this committee has spent a number of meetings trying to deduce from the various counties and the sheriffs, who work with the situation every day, as to what shall be done by the Legislature to come up with useful legislation for the counties, but yet, not burdensome.

ASSEMBLYMAN HARDWICK: Thank you, Ms. Mortimer, for your comments. I really only had one question. I wondered what your reaction was to Commissioner Fauver's recommendation that the assignment judge be the intermediary between the Department of Corrections and the county jails, over the implementation of standards.

MS. MORTIMER: I think the assignment judge has many other things to do, rather than be the intermediary, and I respectfully reject that suggestion made by the Commissioner.

ASSEMBLYMAN HARDWICK: Mr. Girgenti, any questions?

ASSEMBLYMAN GIRGENTI: No. I think you have said everything. You have sort of summed up the report, in terms of your feelings on it, and I thank you very much for informing us of your feelings in your county on this important issue. Thank you.

ASSEMBLYMAN HARDWICK: Thank you. This concludes our series of public hearings on the report of the County Penal Systems Study Commission. The sub-committee will prepare a recommendation to the full Committee. If it looks like legislation is appropriate, it would make its legislative recommendations. So, for those of you who have followed these hearings over the last few months, we are targeting for October to have recommendations for legislation. Thank you, again, for all of your assistance and cooperation.

(Hearing concluded)

PREPARED STATEMENT OF
DEPARTMENT OF CORRECTIONS' COMMISSIONER WILLIAM H. FAUVER
BEFORE A SUBCOMMITTEE OF THE
ASSEMBLY COUNTY GOVERNMENT COMMITTEE
ON COUNTY PENAL FACILITIES
AUGUST 29, 1978

FIRST, I WOULD LIKE TO PRESENT AN OVERVIEW OF THE NEW JERSEY DEPARTMENT OF CORRECTIONS' RELATIONSHIP WITH COUNTY CORRECTIONAL FACILITIES.

BEFORE OUR DEPARTMENT WAS ESTABLISHED IN NOVEMBER 1976, THE STATE'S CORRECTIONAL SYSTEM WAS ADMINISTERED BY THE DIVISION OF CORRECTION AND PAROLE, ONE OF SEVEN DIVISIONS IN THE THEN DEPARTMENT OF INSTITUTIONS AND AGENCIES

THE DIVISION HAD THE AUTHORITY TO INSPECT COUNTY JAILS ANNUALLY: THE PHYSICAL CONDITION OF THE BUILDING, ITS MANAGEMENT AND OPERATION. INSPECTION REPORTS WERE SENT TO THE COMMISSIONER OF I & A, THE BOARD OF FREEHOLDERS, COUNTY SHERIFF AND WARDEN.

THE COMMISSIONER WAS EMPOWERED TO INSTITUTE A SUIT AGAINST THE COUNTY, IF CONDITIONS WERE IMPROPER OR INADEQUATE, OR TO REFER THE MATTER TO THE COUNTY PROSECUTOR. INSTITUTIONS AND AGENCIES HAD NO STATUTORY MANDATE TO EFFECT CHANGES ADMINISTRATIVELY.

WITH THE CREATION OF THE DEPARTMENT OF CORRECTIONS, THE NEW DEPARTMENT WAS GIVEN THE AUTHORITY TO PROMULGATE RULES AND REGULATIONS IN ORDER TO ESTABLISH MINIMUM STANDARDS FOR THE MANAGEMENT OF COUNTY JAILS.

AFTER THE STANDARDS ARE SET, THE COMMISSIONER HAS THE STATUTORY RIGHT TO INSTITUTE SUIT AGAINST THE COUNTY, OR TO REFER TO THE PROSECUTOR ANY FAILURE TO MEET STANDARDS. THE PUBLIC ADVOCATE HAS FULFILLED THE ROLE OF LITIGANT.

OUR DEPARTMENT HAS ORGANIZED A BUREAU OF COUNTY SERVICES, AND IS REVISING AND REWRITING MINIMUM STANDARDS AND OPERATING PROCEDURES FOR COUNTY CORRECTIONAL FACILITIES.

THE STANDARDS AND OPERATING PROCEDURES PROMULGATED IN JUNE 1975 WERE RECOMMENDATIONS, BECAUSE AT THAT TIME NO STATE AGENCY WAS AUTHORIZED TO SET MINIMUM STANDARDS.

OUR DEPARTMENT NOT ONLY AGREES THAT SPECIFIC STANDARDS SHOULD BE DEVELOPED FOR THE OPERATION OF COUNTY JAILS, BUT WE ALSO INTEND TO ADOPT A COMPREHENSIVE SET OF STANDARDS.

BEFORE THESE STANDARDS ARE ENACTED, WE WILL REVIEW THEM WITH COUNTY CORRECTIONAL ADMINISTRATORS.

THE BUREAU OF COUNTY SERVICES CURRENTLY PROVIDES THE FOLLOWING:

1. ANNUAL ON-SITE INSPECTIONS OF COUNTY PENAL FACILITIES ARE CONDUCTED WITH SPECIFIC RECOMMENDATIONS FOR THE IMPROVEMENT OF PROGRAMS AND CONDITIONS WITHIN THOSE FACILITIES.
2. PLANS FOR CONSTRUCTION OR RENOVATION OF EXISTING COUNTY FACILITIES ARE REVIEWED TO INSURE COMPLIANCE WITH PRESENT STANDARDS.
3. ASSISTANCE IS PROVIDED IN THE ESTABLISHMENT AND CONTINUATION OF COUNTY WORK-RELEASE PROGRAMS
4. ASSISTANCE IS GIVEN TO THE COUNTIES IN THE HANDLING OF SPECIAL CASES, SUCH AS FORMER LAW ENFORCEMENT PERSONNEL, PUBLIC OFFICIALS, INFORMERS AND INMATES REQUIRING EXTRAORDINARY CARE.

5. INVESTIGATION OF COMPLAINTS INVOLVING STAFF AND OR INMATES AND ASSIST THE ATTORNEY GENERAL'S OFFICE AND OTHER AGENCIES IN THE CONDUCT OF INVESTIGATIONS.
6. ASSISTANCE IS PROVIDED IN THE AREAS OF SECURITY, INMATE CONTROL, EMERGENCY PLANS AND JAIL ADMINISTRATION UPON REQUEST.
7. DEPARTMENT STAFF, INCLUDING OFFICERS, ARE AVAILABLE TO COUNTY JAILS REQUESTING ASSISTANCE DURING A DISTURBANCE.

SOME COUNTY OFFICIALS HAVE PERCEIVED THE COUNTY PENAL SYSTEM STUDY COMMISSION'S REPORT AS AN EFFORT OF THE DEPARTMENT OF CORRECTIONS TO TAKE OVER THE MANAGEMENT OF COUNTY JAILS. AS YOU KNOW, THE COMMISSION WAS CREATED BY THE LEGISLATURE IN 1973, AND NO MEMBER OF THE STATE CORRECTIONAL SYSTEM WAS INVOLVED IN THE COMMISSION'S WORK.

THERE IS A NEED FOR UNIFORMITY IN THE OPERATION OF COUNTY FACILITIES, TAKING INTO CONSIDERATION THE REALITY THAT SOME COUNTIES FACE THE SAME CONSTRAINTS AS THE STATE'S CORRECTIONAL SYSTEM; LIMITATIONS IN PHYSICAL FACILITIES, FOR EXAMPLE.

IT IS CLEAR THAT THE ABILITY OF STATES AND COUNTIES TO ADAPT TO EVER-CHANGING CONSTITUTIONAL REQUIREMENTS IN FUTURE YEARS WILL BE CRUCIAL IN THE MANAGEMENT OF CORRECTIONAL INSTITUTIONS. THESE CONSTITUTIONAL REQUIREMENTS ARE NOT UNIQUE TO THE STATE, OR THE COUNTY, OR EVEN FEDERAL INSTITUTIONS.

ALL OF OUR EFFORTS SHOULD BE DIRECTED TOWARD A MORE UNIFORM POLICY IN THE OPERATION OF CORRECTIONAL INSTITUTIONS.

WE ALSO MUST BE AWARE OF COSTS AND, AT THIS POINT, THE DEPARTMENT HAS NOT CONDUCTED ANY STUDY, NOR IS IT AWARE OF ANY STUDY, WHICH PROJECTS THE AMOUNT OF FINANCIAL SUPPORT THAT WOULD BE NECESSARY TO ENABLE COUNTIES TO MEET THE MINIMUM STANDARDS THAT ARE BEING PREPARED. WHILE THE PRIMARY RESPONSIBILITY FOR FUNDING RESTS WITH THE BOARDS OF FREEHOLDERS, I BELIEVE THERE IS MERIT IN RESEARCHING THE POSSIBILITY OF A BOND ISSUE QUESTION FOR THE RENOVATION, IMPROVEMENT AND CONSTRUCTION OF COUNTY JAILS. IF SUCH A PROPOSAL IS WARRANTED, THEN CONSIDERATION SHOULD BE GIVEN TOWARD PROPOSING THIS MATTER TO THE COMMISSION ON CAPITAL PLANNING AND BUDGETING.

SOME COUNTIES HAVE SENT OFFICERS TO THE DEPARTMENT'S CORRECTION OFFICERS TRAINING ACADEMY. JUST AS THERE IS A NEED FOR UNIFORM STANDARDS UNDER WHICH COUNTY CORRECTIONAL INSTITUTIONS OPERATE, THERE IS A NEED FOR WELL-TRAINED OFFICERS. OUR ACADEMY IS AVAILABLE TO PROVIDE THAT TRAINING.

THE DEPARTMENT IS ALSO CONSIDERING ORGANIZING A STATE-COUNTY CORRECTIONS COUNCIL, CONSISTING OF REPRESENTATIVES FROM MY OFFICE, THE COUNTY JAIL WARDENS' ASSOCIATION AND THE SHERIFFS' ASSOCIATION. SUCH A UNIT CAN MEET REGULARLY TO WORK TOWARD ACHIEVING THE MOST COST-EFFECTIVE MEANS OF UPGRADING OPERATIONS AND PROVIDING UNIFORM SERVICES.

THERE IS AN ADVANTAGE, TO THE CCUNTIES, AS A RESULT OF THE SETTING OF MINIMUM STANDARDS AND THE INSPECTION PROCESS. THE INSPECTION REPORTS ISSUED BY THE BUREAU OF COUNTY SERVICES CAN SERVE TO DOCUMENT, FOR THE WARDENS AND SHERIFFS, THE NEEDS FOR IMPROVEMENTS, AND WILL ASSIST THEM IN OBTAINING RESOURCES IN THEIR BUDGET REQUESTS.

ALTHOUGH FUNDING IS ESSENTIAL IN MAKING IMPROVEMENTS AT ANY LEVEL OF CORRECTIONS, CREATIVITY IN MANAGING A JAIL, WITHIN BUDGETARY LIMITATIONS, IS NOT A LOST ART. THE RESOURCEFULNESS OF CORRECTIONS ADMINISTRATORS, HOWEVER, SHOULD NOT BE PUSHED TO THE BRINK.

THE PRIMARY RESPONSIBILITY FOR FUNDING RESTS WITH THE COUNTY BOARDS OF FREEHOLDERS AND THEY, AS WELL AS THE DEPARTMENT, KNOW VERY WELL THAT MANY COUNTY JAILS WERE BUILT MORE THAN 50 YEARS AGO, LONG BEFORE SERVICES WERE MANDATED BY LAWS PASSED IN RECENT YEARS AND BEFORE MANY REQUIREMENTS WERE IMPOSED BY COURT DECISIONS.

REGARDING STAFFING OF COUNTY JAILS, THE COUNTY ASSIGNMENT JUDGE HAS THE AUTHORITY TO ESTABLISH POSITIONS AND SALARY LEVELS FOR COUNTY GOVERNMENT OPERATIONS.

THE ASSIGNMENT JUDGE HAS THE POWER TO ADD NEW POSITIONS IF THE NEED IS CLEAR [R.1:33-3(6)]. IF MORE CORRECTIONAL OFFICERS OR MEDICAL STAFF ARE WARRANTED IN A COUNTY JAIL, THE ASSIGNMENT JUDGE CAN SEE THAT THEY ARE PROVIDED. I ENCOURAGE UTILIZING THIS FUNDING METHOD WHEN NECESSARY.

IN ADDITION, I RECOMMEND THAT THE LEGISLATURE CONSIDER DRAFTING LEGISLATION TO EXPAND THIS STATUTORY AUTHORITY SO THAT THE ASSIGNMENT JUDGE COULD ALLOCATE COUNTY FUNDS FOR ESSENTIAL IMPROVEMENT OF CORRECTIONAL FACILITIES. MY STAFF WOULD BE PLEASED TO ASSIST YOUR COMMITTEE IN DRAFTING SUCH LEGISLATION. THANK YOU.

